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Feb 18 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Jennifer B. McCoy and R. Ferrell Cothran, Jr., Circuit Court Judges

Appeal No. 2020-001095

Joseph Abruzzo,..... Respondent,

v.

Bravo Media Productions LLC; Haymaker  
Media, Inc.; NBCUniversal Media, LLC;  
Comcast Corporation; Craig Conover; Chelsea  
Meissner; and Madison LeCroy,..... Appellants/Petitioners.

**REPLY TO RETURN TO  
MOTION TO DISMISS  
PETITION FOR REHEARING**

Appellants/Petitioners Bravo Media Productions LLC, Haymaker Media, Inc., NBCUniversal Media, LLC, Comcast Corporation, Craig Conover, Chelsea Meissner, and Madison LeCroy hereby Reply to Respondent’s Return to Appellants’ Motion to Dismiss Petition for Rehearing. As an initial matter, Respondent’s Return is subject to sanctions under Rule 269, SCACR because he fails entirely to address the substance of Appellants’ Motion. Indeed, he fails to even mention Rule 221(c), SCACR, which provides that this Court “will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party’s appeal.” Instead, he continues to argue the substance of his impermissible and meritless Petition for Rehearing.

It is unclear what Respondent means when he asserts “there really is no such thing as dismissal of a petition for rehearing ...” Under this Court’s Rules, any petition or motion can be dismissed where it is improper, as is his Petition for Rehearing. *See* Rule 221(c), SCACR; *see also* Rule 240, SCACR (providing the same). Respondent’s baseless assertion is plainly incorrect in light of the clear and unambiguous prohibition of his Petition in Rule 221(c), SCACR.

Respondent’s Return is not only frivolous but is undertaken solely for purposes of delay, which is evidenced in his request that Appellants “should be requested to submit a return addressing the issues raised herein and in respondent’s petition for rehearing.” The reason Respondent seeks to delay this Court’s decision on the Motion to Dismiss is because a hearing on his outstanding discovery motions is scheduled before the circuit court for March 8, 2022. Based on this Court’s January 28, 2022 Order staying matters before the circuit court, the undersigned has requested twice that Respondent withdraw his pending discovery motions. (Exh. A). Rather than respond to counsel or withdraw his pending motions, Respondent filed his Petition for Rehearing in violation of Rule 221(c), SCACR. Respondent’s actions—both at the circuit court and before this Court—have been undertaken primarily for the purpose of delay and harassment, causing Appellants to incur substantial costs to defend against his meritless claims, assertions and motions/petitions.

In addition, Respondent either misunderstands or intentionally misconstrues the effect of this Court’s January 28, 2022 Order staying all further proceedings before the circuit court, as well as the applicable standard governing Appellants’ initial Petition for Writ of Supersedeas. By pointing out that this Court’s January 28 Order did not finally decide any matter in the pending appeal, which is the only exception under Rule 221(c) that would allow Respondent to file a Petition for Rehearing of that Order, Appellants did not concede that discovery is not a matter

*affected* by the appeal—which is the actual standard governing Appellants’ initial Petition. Indeed, their entire Petition for Writ of Supersedeas is based on the argument, supported by statute and case law, that discovery is a matter affected by their appeal of the denial of their motion to compel arbitration. Respondent’s Return is based on an intentional conflation of the standards applicable to Rule 221(c) with the standard governing Rule 241 and it should be rejected for that reason as well. This Court, on the other hand, employed the correct standard when granting Appellants’ Petition for Writ of Supersedeas. Patently, Judge Price’s two Form 4 Orders erroneously denying Appellants’ motion to compel arbitration which are pending on appeal before this Court, did not order, compel or reference discovery issues in any way. Therefore, this Court’s January 28 Order granting a stay did not dismiss or finally decide Appellants’ appeal. That is quite different from stating the basic tenant that ongoing plenary discovery and litigation of a dispute before a trial court, while the appeal of a denial of a motion to arbitrate is pending, is a matter *affected* by an appeal.<sup>1</sup>

Respondent’s argument that the circuit court’s order compelling full discovery of this matter is an exception to the automatic stay under Rule 241(b)(2), SCACR, is both absurd and incorrect. First, Respondents have not appealed from the circuit court orders compelling discovery, *i.e.*, the production of documents, but, instead, from the Orders denying their motion to compel arbitration. Second, the exception to the general rule set forth in Rule 241(b)(2) addresses “[j]udgments directing the assignment or delivery of documents or personal property as provided in S.C. Code Ann. § 18-9-150.” That statutory provision provides:

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<sup>1</sup> Respondent’s assertion that Appellants have conceded that the discovery that was the subject of Appellants’ Petition would be available in arbitration is both disingenuous and wrong. Appellants have repeatedly argued, supported by case law, that it is beyond dispute that the additional voluminous and harassing party and nonparty discovery that Responded propounded after Judge McCoy’s February 11, 2021 Form 4 Order would not be available in arbitration.

If the judgment appealed from directs the assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed by appeal unless the things required to be assigned or delivered be brought into court or placed in the custody of such officer or receiver as the court shall appoint or unless an undertaking be entered into on the part of the appellant, with at least two sureties and in such amount as the court or a judge thereof shall direct, to the effect that the appellant will obey the order of the appellate court upon the appeal.

S.C. Code Ann. § 18-9-150. Respondent apparently is advancing the illogical and frivolous argument that, pursuant to Rule 241(b)(2) and Section 18-9-150, in order to obtain a stay of discovery in this matter, the documents he seeks in discovery had to “be brought into court or placed in the custody of such officer or receiver” or that “an undertaking be entered on the part of the appellant” for the discovery. This absurd result is clearly not what either Rule 241(b)(2) or Section 18-9-150 intend, *see, e.g., Florence County Democratic Party v. Florence County Republican Party*, 398 S.C. 124, 128, 727 S.E.2d 418, 420 (2012) (noting that “in construing a statute, this Court will reject an interpretation which leads to an absurd result that could not have been intended by the General Assembly”), demonstrating further the frivolity of Respondent’s Return.

Equally baseless is Respondent’s argument that Rule 241(c)(1), SCACR, requires that Appellants had to appeal the circuit court’s discovery orders in order to seek a stay of discovery, asserting that “[a] reasonable reading of this rule is that granting supersedeas relief contemplates an accompanying appeal of the same order from which the petitioner seeks supersedeas.” Such a reading of Rule 241(c)(1) is neither reasonable nor logical. All that is required for Appellants to successfully seek a stay of this matter before the circuit court is to demonstrate, which they have done, that continued litigation (including ongoing discovery) is a matter affected by their appeal of the circuit court’s denial of their motion to compel arbitration.

Respondent's entire argument appears to be an ineffectual attempt to fabricate a Catch-22 snare based on standards that have no basis in law. On one hand, he argues erroneously that Appellants had to appeal the circuit court orders compelling full discovery in order to seek a stay while, while also arguing that Appellants cannot appeal those very same discovery orders because they raise no novel issues, there are no extraordinary circumstances or abuse of discretion by the circuit court. Respondent's argument is meritless, illogical and should be rejected.

In sum, Respondent has submitted a procedurally improper and completely meritless filing filled with misrepresentations of the governing law and the arguments made by Appellants. The only authority Respondent points to in support of his arguments is irrelevant, as Appellants did not appeal a discovery order, but, instead, properly sought a stay of continued litigation of this matter pending the outcome of their appeal of the denial of their motion to compel arbitration. Respondent's improper Return, as well as his impermissible Petition for Rehearing, are plainly frivolous and designed to harass, delay, and confuse the issues.

### **CONCLUSION**

For the reasons stated herein and in their Motion to Dismiss, Appellants request that this Court dismiss Respondent's Petition for Rehearing pursuant to Rule 221(c), SCACR. In addition, Appellants request that this Court impose sanctions on Respondent pursuant to Rule 269, SCACR, which are warranted by Respondent's continued pursuit of baseless claims and arguments, and are necessary in order to discourage such conduct in the future.

[SIGNATURE ON FOLLOWING PAGE]

February 18, 2022

MCANGUS GOUELOCK & COURIE, LLC

By:   
Helen F. Hiser, S.C. Bar No.: 76124  
James D. Smith, Jr., S.C. Bar No. 16179  
Danielle F. Payne, S.C. Bar No. 73142  
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jsmith@mgclaw.com  
(843) 576-2900  
*Attorneys for Appellants/Petitioners*

## Helen Hiser

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**From:** Helen Hiser  
**Sent:** Friday, January 28, 2022 1:54 PM  
**To:** 'Aaron Edwards'  
**Cc:** JD Smith, Jr.; Danielle Payne  
**Subject:** FW: Joseph Abruzzo v. Bravo Media Productions, LLC, et al. 2020-001095  
**Attachments:** Abruzzo v. Bravo - Order.pdf

Aaron, We assume you have received a copy of the Court of Appeals' order granting our Petition for Writ of Supersedeas. Accordingly we request that you notify the circuit court that all of your pending motions are withdrawn at this time. We also request that you promptly withdraw your subpoenas to the eleven non-parties.

Sincerely,  
Helen

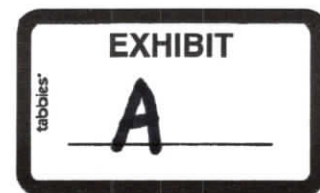
**From:** Sineath, Christina <csineath@sccourts.org>  
**Sent:** Friday, January 28, 2022 11:46 AM  
**To:** Helen Hiser <helen.hiser@mgclaw.com>; JD Smith, Jr. <jsmith@mgclaw.com>; Danielle Payne <danielle.payne@mgclaw.com>; aaron@edwardsfirmllc.com  
**Cc:** Anna Yeandel <Anna.Yeandel@mgclaw.com>; Lisa Carducci <Lisa.Carducci@mgclaw.com>  
**Subject:** Joseph Abruzzo v. Bravo Media Productions, LLC, et al. 2020-001095

Good morning,

Attached please find correspondence from the Court of Appeals.

*Christina Sineath*  
*Senior Appeals Specialist*  
*S.C. Court of Appeals*  
*(803) 734-1890*  
*E-Filing Email: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)*

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



## Helen Hiser

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**From:** Helen Hiser  
**Sent:** Tuesday, February 8, 2022 4:57 PM  
**To:** 'Aaron Edwards'  
**Cc:** JD Smith, Jr.; Danielle Payne  
**Subject:** FW: Motion "MCOMPL-Motion/Compel" for Case "2020CP1000472-Joseph Abruzzo VS Bravo Media Productions Llc , defendant, et al" was added to a Motions Roster for 3/8/2022 at 10:00 AM

Aaron, From the attached notice of hearings on this as well as the notice of the motion on your motion to deem requests for admission admitted, it appears that you have not withdrawn your discovery motions as has been requested and as clearly is required pursuant to the Court of Appeals' January 28, 2022 grant of our petition for writ of supersedeas.

Please notify the Circuit Court immediately that you are withdrawing your motions and copy us on that notice.

Sincerely,  
Helen

-----Original Message-----

**From:** cpas@charlestoncounty.org <cpas@charlestoncounty.org>  
**Sent:** Tuesday, February 8, 2022 3:58 PM  
**To:** Helen Hiser <helen.hiser@mgclaw.com>  
**Cc:** jsjohnson@charlestoncounty.org  
**Subject:** Motion "MCOMPL-Motion/Compel" for Case "2020CP1000472-Joseph Abruzzo VS Bravo Media Productions Llc , defendant, et al" was added to a Motions Roster for 3/8/2022 at 10:00 AM

Motion(s) for the herein referenced case will be heard by the Honorable Judge Keesley on the above specified date and time. The hearing will be held via the WebEx Virtual Courtroom.

To access the virtual courtroom go to the South Carolina Judicial website at SCCOURTS.ORG. Click "Calendar", then "Monthly View", then "Circuit" on the day your hearing is scheduled. Scroll until you find Judge William P. Keesley , then click the Virtual Courtroom link. Enter your name and email before you join.

Memos and Briefs are to be submitted to Law Clerk, Aaron McCall at [wkeesleylc@sccourts.org](mailto:wkeesleylc@sccourts.org) no later than 5:00 pm the day before your hearings.

If you have any questions please contact Joy Johnson at (843) 958-5049

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APPEAL FROM CHARLESTON COUNTY  
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v.

Bravo Media Productions LLC; Haymaker  
Media, Inc.; NBCUniversal Media, LLC;  
Comcast Corporation; Craig Conover; Chelsea  
Meissner; and Madison LeCroy,..... Appellants.

**PROOF OF SERVICE**

I certify that I have served Appellants/Petitioners' **Reply to Return to Motion to Dismiss Petition for Rehearing** on Joseph Abruzzo, by emailing it to his attorney of record, as follows:

Aaron E. Edwards, Esq.  
Edwards Law Firm  
755 Johnnie Dodds Blvd., Suite 100  
Mount Pleasant, South Carolina 20464  
(843) 375-2008  
aaron@edwardsfirmllc.com

February 18, 2022

/s/Helen F. Hiser  
Helen F. Hiser  
McANGUS GOUDELOCK & COURIE LLC  
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PO Box 650007  
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(843) 576-2900  
*Attorneys for Appellants/Petitioners*

**mgc**

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**Feb 18 2022**

**SC Court of Appeals**

**Reply To**

HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com

February 18, 2022

**Via S.C. Courts E-Filing & U.S. Mail**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

RE: Joseph Abruzzo v. Bravo Media Productions LLC, Haymaker Media, Inc.,  
NBCUniversal Media, LLC, Comcast Corporation, Craig Conover,  
Chelsea Meissner, and Madison LeCroy  
Civil Action No.: 2020CP1000472 (Charleston)  
Carrier Claim No.: 170003678  
MGC File No.: 21162.20001  
Appeal No.: 2020-001095

Dear Ms. Kitchings:

Enclosed please find Appellants/Petitioners' Reply to Return to Motion to Dismiss  
Petition for Rehearing, and the Proof of Service in the above-referenced matter. If the  
Court needs additional copies, please let us know.

If you have any questions, please do not hesitate to contact me.

Sincerely,  
McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: Aaron E. Edwards, Esq. (via Email)